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TAGS: KNNP KTIA MNUC PARM PHSA PREL UP

SUBJECT: SEEKING PROGRESS ON PSI SHIPBOARDING AGREEMENT
WITH UKRAINE

REF: STATE 032521

SENSITIVE BUT UNCLASSIFIED. PLEASE PROTECT ACCORDINGLY.

¶1. (SBU) OBJECTIVES: Washington remains committed to completing a bilateral shipboarding agreement with Ukraine under the Proliferation Security Initiative (PSI) and is prepared to send an interagency team of experts to Kyiv to resolve remaining differences between the Ukraine-proposed and U.S.-proposed texts. Although we understand the Ukrainian government (GOU) also wants to meet in Kyiv, we have not yet received official GOU feedback on whether the explanations we provided them in February (reftel) have resolved any of their concerns. We need to obtain GOU feedback to develop solutions and mutually acceptable compromises before holding our next meeting.

¶2. ACTION REQUESTED: Embassy is requested to obtain the necessary substantive feedback from appropriate host government officials, and to propose dates for a meeting in Kyiv. Embassy may draw on or deliver the points in paragraph 4 below.

¶3. (SBU) BACKGROUND: Since 2004 we have been negotiating with Ukraine a Proliferation Security Initiative (PSI) shipboarding agreement, which will be a key means of making the PSI operational between our countries and expediting requests to board U.S. or Ukrainian flagged vessels suspected of trafficking in WMD-related items. In February 2008 in Washington, U.S. and Ukrainian experts held a useful half-day meeting on this proposed agreement (reftel). The U.S. experts discussed U.S. concerns with the latest Ukrainian-proposed draft text and explained the reasons for U.S. positions, including USG legal constraints. The Ukrainians explained the rationales behind their proposals.

¶4. Begin points on PSI Shipboarding Agreement:

-- The U.S. considers the February 13 meeting in Washington on the draft shipboarding agreement to have been very useful. We were able to discuss each side's concerns in sufficient detail so that each side obtained a much better understanding of the other's positions.

-- During and after the February 13 meeting, the U.S. provided additional informational materials to the Ukrainian MFA:

- An explanation of U.S. procedures for settling claims for damages during ship boardings, in English and Ukrainian;
- Draft bilingual forms for communications between the Competent Authorities of the Parties;
- The U.S. Coast Guard's procedures for the use of force, in English;
- A U.S. summary report of the February 13 meeting.

-- We would like to receive any feedback Ukraine has on

these documents.

-- We believe the next step toward completing the shipboarding agreement is to receive Ukraine's current positions. In order to be well-prepared for the next meeting, the U.S. team needs to receive a statement in advance identifying which issues remain of concern to Ukraine and which questions have been resolved in Ukraine's view.

-- The U.S. is very interested in completing this agreement and wants to continue working closely with Ukraine toward that end. A U.S. expert team is available and willing to visit Kyiv for another round of talks at a mutually convenient time. U.S. experts would be available for meetings in the second half of October (any time from October 16-28). We believe that at least two days will be needed to address all remaining issues.

-- If Ukraine considers it helpful, the U.S. team could provide a briefing on the scenarios featured in tabletop exercises we conducted this spring with Malta and Croatia to practice implementation of our bilateral shipboarding agreements with those countries. We could conduct a similar tabletop exercise with Ukraine's operational personnel once the provisions of the shipboarding agreement are finalized.

15. REPORTING DEADLINE AND POINTS OF CONTACT: Embassy is requested to obtain and report host government response no later than September 29, 2008. Washington points of contact are Jane Purcell, ISN/CPI, e-mail: PurcelJa@state.gov, 202-647-6186; and J. Ashley Roach, L/OES, e-mail: RoachJA@state.gov, 202-647-1646. Department much appreciates Post's assistance.

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